

Exhibit 19

Deposition of Joseph Silva

(June 7, 2017)

(excerpted)

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CUNG LE; NATHAN QUARRY, JON)
FITCH, on behalf of)
themselves and all others)
similarly situated,)

Plaintiffs,)

vs.)

ZUFFA, LLC, d/b/a Ultimate)
Fighting Championship and)
UFC,)

Defendant.)
_____)

Case No.
2:15-cv-01045-RFB-(PAL)

VIDEOTAPE DEPOSITION OF JOSEPH SILVA

Richmond, Virginia

June 7, 2017

8:11 a.m.

Reported by:
KIMBERLY L. RIBARIC, RPR, CCR
JOB NO. 50374

<p style="text-align: right;">98</p> <p>1 SILVA</p> <p>2 A. Yes.</p> <p>3 And the problem with something like this,</p> <p>4 too, is it's not just the Gomi part. How would I</p> <p>5 bring that to Khabib? I'm looking at Khabib's side</p> <p>6 of it. He's going, I'm highly ranked, I would like</p> <p>7 to get in position to fight for a title, and beating</p> <p>8 Gomi is not going to help me elevate myself.</p> <p>9 Q. So top fighters, like Khabib, who was</p> <p>10 number 4 at the time, he's going to want to fight</p> <p>11 other top fighters in order to get a chance to</p> <p>12 contend for the title; correct?</p> <p>13 MR. ISAACSON: Objection. Calls for</p> <p>14 speculation.</p> <p>15 A. Correct.</p> <p>16 Q. What ended up happening here, do you</p> <p>17 remember?</p> <p>18 A. I don't recall. I don't remember who Gomi</p> <p>19 went on to fight.</p> <p>20 Q. And -- and just so I'm clear, one way a</p> <p>21 fighter can become a contender is by defeating</p> <p>22 higher-ranked opponents?</p> <p>23 A. Yes.</p> <p>24 Q. And so if you keep defeating higher-ranked</p> <p>25 opponents, eventually you'll be able to fight for the</p>	<p style="text-align: right;">100</p> <p>1 SILVA</p> <p>2 Q. I'm sorry, 25 to 26.</p> <p>3 And in particular, the text that was sent to</p> <p>4 you dated 2/27/15 at 18:07. So at the very bottom of</p> <p>5 the page. And I believe the --</p> <p>6 MR. ISAACSON: I'm sorry, bottom of which</p> <p>7 page?</p> <p>8 MR. CRAMER: Bottom of page 25.</p> <p>9 MR. ISAACSON: Oh, there. I see it.</p> <p>10 Yeah.</p> <p>11 MR. CRAMER: There's a blank, the blanks</p> <p>12 are Silva.</p> <p>13 MR. ISAACSON: Okay.</p> <p>14 MR. CRAMER: I'll represent to you that</p> <p>15 the blanks are Silva.</p> <p>16 Q. And the from is (720) 470-9009.</p> <p>17 Do you recognize that phone number?</p> <p>18 Is that John Crouch?</p> <p>19 A. I don't know.</p> <p>20 Q. Okay. Who is John Crouch?</p> <p>21 A. John Crouch is a trainer and manager.</p> <p>22 Q. Okay. We believe it's John Crouch. If --</p> <p>23 if the context allows you to confirm that for me,</p> <p>24 please do.</p> <p>25 So the person who texted to you on 2/27/15</p>
<p style="text-align: right;">99</p> <p>1 SILVA</p> <p>2 championship; is that right?</p> <p>3 A. The -- what -- the one problem with that is</p> <p>4 in a match-up somebody is always going to be ranked</p> <p>5 lower.</p> <p>6 Q. Right.</p> <p>7 A. So it's not that you can't still elevate off</p> <p>8 a lower, but it's how much lower.</p> <p>9 Q. I see. So if your -- if your goal as a</p> <p>10 fighter is to contend for the title, you -- you do,</p> <p>11 in general, want to continue to fight top-ranked</p> <p>12 opponents; is that right?</p> <p>13 A. Correct.</p> <p>14 MR. CRAMER: Okay. All right. I'd like</p> <p>15 to mark as Silva Exhibit 6 the next text</p> <p>16 compilation.</p> <p>17 (Silva Deposition Exhibit 6 marked for</p> <p>18 identification.)</p> <p>19 Q. All right. This is -- this compilation is</p> <p>20 Bates ZFL-2699690. And this document was produced by</p> <p>21 Zuffa to us as a compilation of text messages that</p> <p>22 had been pulled from your phone. And the interchange</p> <p>23 I'd like to ask you about is on page 24 to 25 of</p> <p>24 Exhibit 6, so 24 of 163.</p> <p>25 MR. MADDEN: It's 25 to 26.</p>	<p style="text-align: right;">101</p> <p>1 SILVA</p> <p>2 at 18:07 said: "What did you think of the Ben v.</p> <p>3 Tyron match-up."</p> <p>4 And you say: "I like it."</p> <p>5 And he responded: "Think we could do five</p> <p>6 rounds? Would like to have some time to wear these</p> <p>7 guys down."</p> <p>8 And you say: "Probably not. Only main</p> <p>9 events are five rounds and those are i stalky main</p> <p>10 events or the highest ranked, biggest draws</p> <p>11 available. We have main events locked in through</p> <p>12 June."</p> <p>13 Can you recall that you sent at least the</p> <p>14 last text there, the "probably not"? Does that sound</p> <p>15 like you?</p> <p>16 A. Yeah. I don't dispute it.</p> <p>17 Q. Okay. And you -- "i stalky" looks like an</p> <p>18 i-correct or some kind of --</p> <p>19 A. Yeah, it has later on, it says, like, "darn</p> <p>20 auto correct."</p> <p>21 Q. Yeah. So what -- what did you think</p> <p>22 "i stalky" meant?</p> <p>23 A. (Reading.) I'm not sure. But what I was</p> <p>24 telling him, as said in the last sentence, was that</p> <p>25 we already had all the main events through that time</p>

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<p style="text-align: right;">102</p> <p>1 SILVA</p> <p>2 period locked in.</p> <p>3 Q. Okay. So I just want to understand some of</p> <p>4 the context here, if I might.</p> <p>5 A. Uh-huh.</p> <p>6 Q. Is it correct that when selecting -- well,</p> <p>7 what are main events? Let's start there.</p> <p>8 A. It's the final fight of the show, the</p> <p>9 most -- the -- the show you're kind of putting the</p> <p>10 most promotion and advertising on --</p> <p>11 Q. And that's --</p> <p>12 A. -- fight --</p> <p>13 Q. That's the main fight that you use as the</p> <p>14 draw to the event?</p> <p>15 A. Yes.</p> <p>16 Q. And in those main events, you look to use</p> <p>17 the biggest drawing fighters; correct?</p> <p>18 A. That are available at the time, yes.</p> <p>19 Q. That are -- okay. That are available at the</p> <p>20 time. And those include some of the highest-ranked</p> <p>21 fighters; correct?</p> <p>22 A. Sometimes.</p> <p>23 Q. Why is it that you seek to populate the main</p> <p>24 events with the biggest draws as fighters?</p> <p>25 A. Because you would like people to buy tickets</p>	<p style="text-align: right;">104</p> <p>1 SILVA</p> <p>2 better-known fighters; is that fair?</p> <p>3 A. Yes.</p> <p>4 Q. All right. If you turn to -- one second.</p> <p>5 All right. Turn to page 2 of the compilation,</p> <p>6 please, Silva Exhibit 6. And if I could draw your</p> <p>7 attention to -- to a text that was sent to you dated</p> <p>8 January 31st, 2015, at 1:46 p m., sort of in the</p> <p>9 middle of the page. The blanks, again, are you. And</p> <p>10 this was sent to you by (856) 297-2465. And I'll</p> <p>11 represent to you that that is Rob Haydak, Paul</p> <p>12 Felder's representative.</p> <p>13 A. Okay.</p> <p>14 Q. Does that ring a -- is that -- did you know</p> <p>15 that that was his phone number?</p> <p>16 A. No. I don't know any phone number because</p> <p>17 it's cell phones, I just hit the name.</p> <p>18 Q. Exactly. Okay. Understood.</p> <p>19 But we believe that that is Rob Haydak.</p> <p>20 A. Okay.</p> <p>21 Q. Who is Paul Felder?</p> <p>22 A. He is a lightweight fighter in the UFC.</p> <p>23 Q. And Paul Felder is a fighter representative;</p> <p>24 is that right? I'm sorry, Rob Haydak --</p> <p>25 A. Rob Haydak is.</p>
<p style="text-align: right;">103</p> <p>1 SILVA</p> <p>2 to it, to tune in on TV to watch it. And they're</p> <p>3 going to want to see the biggest stars that you have.</p> <p>4 Q. And if you have an event that doesn't have a</p> <p>5 top level, headlining match-up, that could hurt the</p> <p>6 ability of the event to attract an audience; is that</p> <p>7 fair?</p> <p>8 A. It is. And that does happen. As I said,</p> <p>9 it's about what's available. You may want a bigger</p> <p>10 fight for a card, but if people are injured or get</p> <p>11 married or whatever -- you have to work with what you</p> <p>12 have.</p> <p>13 Q. And you'd like to have -- as a matchmaker,</p> <p>14 you'd like to have the -- a complete stable of</p> <p>15 top-level fighters that are available to fight so you</p> <p>16 can create headlining events; correct?</p> <p>17 MR. ISAACSON: Objection. Objection to</p> <p>18 form.</p> <p>19 A. That would be ideal.</p> <p>20 Q. Okay. And you would not headline an MMA</p> <p>21 event at the UFC with two lesser-known or</p> <p>22 lower-ranked fighters if you could help it; correct?</p> <p>23 A. If you could help it.</p> <p>24 Q. And that's because that kind of event would</p> <p>25 not draw as much fan interest as one with</p>	<p style="text-align: right;">105</p> <p>1 SILVA</p> <p>2 Q. -- is a fighter representative?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And he's someone who you've dealt</p> <p>5 with from time to time --</p> <p>6 A. Yes.</p> <p>7 Q. -- or you did when you were at UFC?</p> <p>8 Okay. And he asks: "Do you still need</p> <p>9 someone for Thatch?"</p> <p>10 And you answer: "Who do you have?"</p> <p>11 And then there are -- I'd like you to -- you</p> <p>12 say: "Jonavin Webb 7 and 0."</p> <p>13 And then he says: "If you need me for Feb</p> <p>14 am there."</p> <p>15 And you say --</p> <p>16 A. I think that's somebody else.</p> <p>17 Q. Somebody else. Different one.</p> <p>18 So let's go to C -- I think your answer here</p> <p>19 is: "CFFC champ. Teammate with Felder."</p> <p>20 This is from -- I'm sorry. This is from</p> <p>21 Haydak to you.</p> <p>22 A. Uh-huh.</p> <p>23 Q. He says, CFS -- "CFFC champ." --</p> <p>24 A. Uh-huh.</p> <p>25 Q. -- "Teammate with Felder. Trains with</p>

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<p style="text-align: right;">106</p> <p>1 SILVA</p> <p>2 Cerrone. Very tough."</p> <p>3 "It's a main event. I need a name guy,</p> <p>4 preferably one who has fought in the UFC."</p> <p>5 I'm sorry, I skipped over. So he says:</p> <p>6 "CFFC champ. Teammate with Felder. Trains with</p> <p>7 Cerrone. Very tough."</p> <p>8 And then you respond: "It's a main event.</p> <p>9 I need a name guy, preferably one who has fought in</p> <p>10 the UFC."</p> <p>11 Do you see that?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. What is CFFC?</p> <p>14 A. It's a promotion, fighting promotion.</p> <p>15 Q. And --</p> <p>16 A. Like cage fighting -- fighting championship,</p> <p>17 something like that.</p> <p>18 Q. Okay. So it's a promotion.</p> <p>19 And Mr. Haydak is -- is offering to you a</p> <p>20 fighter who was one of Felder's teammates who trains</p> <p>21 with Cerrone for the fight. Is that what was going</p> <p>22 on?</p> <p>23 A. Yes. He's trying to establish his pedigree.</p> <p>24 Q. I see. Says, he's very tough.</p> <p>25 And then -- and that -- and then you say to</p>	<p style="text-align: right;">108</p> <p>1 SILVA</p> <p>2 that's popular with fans and that's well known; is</p> <p>3 that fair?</p> <p>4 MR. ISAACSON: Objection to form.</p> <p>5 A. That's -- ideally it's always a sliding</p> <p>6 scale, as maybe my text will show. I go, this is</p> <p>7 what I'm looking for; and as time is going by, it's,</p> <p>8 okay, well, what's the next step down. What's the</p> <p>9 next step down. You do the best that you can. You</p> <p>10 have your ideal for it, but then you quite often have</p> <p>11 to settle for less.</p> <p>12 Q. And you prefer name guys who've fought in</p> <p>13 the UFC for main events because they tend to be</p> <p>14 people who are proven and high-quality fighters; is</p> <p>15 that fair?</p> <p>16 MR. ISAACSON: Objection to form.</p> <p>17 A. They at least have a name awareness from UFC</p> <p>18 fans. They go, I know who this guy is.</p> <p>19 Q. And so those fighters who have a UFC</p> <p>20 pedigree will generate more fan interest?</p> <p>21 A. It's not only that. It's also that people</p> <p>22 know, as I had brought up earlier, that competing in</p> <p>23 your first UFC, even for high-level guys, tends to be</p> <p>24 a difficult thing. They have what the commentators</p> <p>25 term "the UFC jitters." For somebody like Quinton</p>
<p style="text-align: right;">107</p> <p>1 SILVA</p> <p>2 him: "It's a main event. I need a name guy,</p> <p>3 preferably one who has fought in the UFC."</p> <p>4 What were you trying to convey to</p> <p>5 Mr. Haydak?</p> <p>6 A. That ideally in the situation what I was</p> <p>7 looking for is somebody who people were familiar with</p> <p>8 since this was the main event.</p> <p>9 Q. And why did you -- why were you telling him</p> <p>10 that you wanted preferably someone who had fought in</p> <p>11 the UFC?</p> <p>12 A. So that fans would have that name</p> <p>13 recognition, why is this guy in the main event?</p> <p>14 Q. And it was your -- you were trying to convey</p> <p>15 that more likely a name guy is going to be someone</p> <p>16 who has a pedigree where he was already established</p> <p>17 in the UFC?</p> <p>18 A. Yes. If you're going to be a main event of</p> <p>19 the UFC, it would make sense that you most likely</p> <p>20 already fought in the UFC.</p> <p>21 Q. Okay. And it's fair to say that in</p> <p>22 selecting main events, you -- you need a name guy,</p> <p>23 generally; is that right?</p> <p>24 A. As best as you can do.</p> <p>25 Q. And a name guy generally means a fighter</p>	<p style="text-align: right;">109</p> <p>1 SILVA</p> <p>2 "Rampage" Jackson, who competed in Pride in front of</p> <p>3 huge crowds, still his first UFC he said he had UFC</p> <p>4 jitters and it's hard.</p> <p>5 So it's a tough situation to put somebody</p> <p>6 into for the first UFC. It's like, hey, you're not</p> <p>7 just making your UFC debut, you're in the main event.</p> <p>8 It's more rounds that you may not be used to. It's a</p> <p>9 tough thing. So you would prefer not to do that.</p> <p>10 Q. So you don't want to take someone who has</p> <p>11 fought in another promotion and may have been</p> <p>12 successful in that other promotion, but -- and -- and</p> <p>13 stick them directly in a main event where they would</p> <p>14 potentially be jittery if they were fighting for</p> <p>15 the --</p> <p>16 A. It's happened. And there are some who've</p> <p>17 done well, but there's also some who've complained.</p> <p>18 There's some who are like, wow, that was -- turned</p> <p>19 out to be an issue. But they would have sworn</p> <p>20 beforehand that it was not going to be an issue. But</p> <p>21 you don't know till you're there.</p> <p>22 But what I like to do is give people the</p> <p>23 best chance to succeed. I'm not trying to get</p> <p>24 anybody to win, but I'm trying to give them the best</p> <p>25 chance to do as well as they can.</p>

<p style="text-align: right;">182</p> <p>1 SILVA</p> <p>2 Q. And so one of the things you do as a -- as</p> <p>3 the senior VP of talent is you look out at other MMA</p> <p>4 promotions and you look for people who you think</p> <p>5 might be ready for the UFC; right?</p> <p>6 A. Yes.</p> <p>7 Q. And then you seek to recruit those people to</p> <p>8 the UFC, is that right, if -- if they're ready?</p> <p>9 A. Well, I don't -- I'm always very cautious</p> <p>10 not to interfere with somebody's contract.</p> <p>11 Generally, if -- if somebody becomes available,</p> <p>12 they'll reach out to me.</p> <p>13 Q. I see. Okay. So if someone at another</p> <p>14 promotion becomes available because their end of</p> <p>15 their -- their contract has ended, then they'll</p> <p>16 contact you; and if they're someone that is, you</p> <p>17 believe, of UFC caliber, you might engage in</p> <p>18 negotiations?</p> <p>19 A. Yes. I think the -- fighters will want to</p> <p>20 test free agency, so they may contact Bellator, they</p> <p>21 may contact me, but they're not going to do it until</p> <p>22 they're able to; or every now and then they wouldn't,</p> <p>23 and I would remind them, get back to me when you</p> <p>24 legally can.</p> <p>25 Q. Right.</p>	<p style="text-align: right;">184</p> <p>1 SILVA</p> <p>2 Q. It's in the -- would you agree that it would</p> <p>3 be in the interest of fighters to be able to test</p> <p>4 free agency just to see if they could get a -- a</p> <p>5 counteroffer?</p> <p>6 MR. ISAACSON: Objection. Calls for</p> <p>7 opinion. Form.</p> <p>8 A. Yeah, I think our contracts have provisions</p> <p>9 for that at the end of the contract.</p> <p>10 Q. You're referring to the right to match</p> <p>11 provision?</p> <p>12 A. That's just -- the contracts don't last</p> <p>13 forever, so you will eventually -- if that's your</p> <p>14 choice, you will, and fighters have, gone to free</p> <p>15 agency.</p> <p>16 Q. So the contracts don't last forever. It's</p> <p>17 fair to say that at the end of the term of a contract</p> <p>18 that it's your understanding that Zuffa has a 90-day</p> <p>19 exclusive negotiation period?</p> <p>20 A. Yes.</p> <p>21 Q. All right. And during that period, Zuffa is</p> <p>22 the only one who can bid on the services of that</p> <p>23 fighter; is that correct?</p> <p>24 A. That is my understanding.</p> <p>25 Q. And then there is a year period called the</p>
<p style="text-align: right;">183</p> <p>1 SILVA</p> <p>2 A. I don't want to talk to you till you're free</p> <p>3 to talk to me.</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 And every now and then you'll get one from</p> <p>11 1FC or from KSW that is not of the norm, but they</p> <p>12 just decide I like that guy and we're going to bid on</p> <p>13 him. But you won't know until you put feelers out</p> <p>14 there.</p> <p>15 Q. And from the fighter's perspective, some of</p> <p>16 them want to test free agency so that they can have a</p> <p>17 number of different promotions bidding for their</p> <p>18 services; is that right?</p> <p>19 MR. ISAACSON: Objection. Calls for</p> <p>20 speculation.</p> <p>21 A. Yeah, I would say that some do. Some --</p> <p>22 some feel reassured just to -- you know, just sign me</p> <p>23 up where I'm now, this is where I'm happy. And some</p> <p>24 go, no, I'm interested in seeing what other people</p> <p>25 have to say.</p>	<p style="text-align: right;">185</p> <p>1 SILVA</p> <p>2 right-to-match period; is that your understanding?</p> <p>3 A. Yes.</p> <p>4 Q. And during that period, the fighter is able</p> <p>5 to field offers from other promotions, but Zuffa has</p> <p>6 the right to match that offer; is that right?</p> <p>7 A. That is correct.</p> <p>8 Q. And if Zuffa matches that offer, then that</p> <p>9 fighter is obliged to then re-sign with Zuffa; is</p> <p>10 that right?</p> <p>11 A. I believe so.</p> <p>12 Q. So during that 15-month period, if there's a</p> <p>13 fighter that Zuffa wants to keep, it has the option</p> <p>14 of keeping him as long as Zuffa matches any offer</p> <p>15 during that right-to-match period; correct?</p> <p>16 A. Yes.</p> <p>17 Q. Would you agree with me that 15 months is a</p> <p>18 long time in an MMA fighter's career, especially</p> <p>19 during the peak of a MMA fighter's career?</p> <p>20 MR. ISAACSON: Objection to form.</p> <p>21 A. No, in that if you -- if the idea is that</p> <p>22 you want to see how you can get the best deal, you</p> <p>23 are getting that best deal within that, if we have</p> <p>24 the right to match. If it's after the 90-day</p> <p>25 exclusive period, and another promotion says, we can</p>

<p style="text-align: right;">186</p> <p>1 SILVA</p> <p>2 give you this much money, we either have to give them</p> <p>3 as much money or we have to let them go.</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 Q. All right. And -- and waiting 15 months</p> <p>14 without fighting is a long time in a fighter's</p> <p>15 career; correct?</p> <p>16 MR. ISAACSON: Objection to form.</p> <p>17 A. Depends on the fighter.</p> <p>18 Q. Well, fighters are independent contractors;</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. And they -- they pay -- in general, they pay</p> <p>22 for their own health insurance; correct?</p> <p>23 A. We have a form of health insurance, yeah.</p> <p>24 Q. But that health insurance doesn't cover</p> <p>25 their families, for example; right?</p>	<p style="text-align: right;">188</p> <p>1 SILVA</p> <p>2 fighters in the lightweight class that would be able</p> <p>3 to give Gaethje an appropriate test?</p> <p>4 A. No. I think -- as I stated earlier, I</p> <p>5 think -- he was in the lightweight division, which I</p> <p>6 think is the deepest division in the world.</p> <p>7 Q. Uh-huh.</p> <p>8 A. I think that pretty much everybody has a</p> <p>9 decent one, but then to truly stand out -- it's not</p> <p>10 that you're not good, but you're just amongst the</p> <p>11 best.</p> <p>12 The worst lightweight that I have is pretty</p> <p>13 darn good. They're not getting by just on their</p> <p>14 size. There's so many, just to be in at all you --</p> <p>15 you must be at -- at a high level of talent.</p> <p>16 So it -- it's not that they didn't have good</p> <p>17 ones, but they did not generally have as many</p> <p>18 recognized people. With them competing amongst</p> <p>19 themselves, not as many had yet stood out, where</p> <p>20 Melvin Guillard was simply a known quantity.</p> <p>21 Q. Because he had been at the UFC?</p> <p>22 A. He'd been at the UFC, but he'd also fought</p> <p>23 in other shows around the world too.</p> <p>24 Q. Right.</p> <p>25 A. He's -- he's a veteran and he'd been around</p>
<p style="text-align: right;">187</p> <p>1 SILVA</p> <p>2 A. No.</p> <p>3 Q. And that they have to pay for their trainer;</p> <p>4 right?</p> <p>5 A. Generally the trainers will take a</p> <p>6 percentage from their purse. So if they're not</p> <p>7 getting a purse, then no.</p> <p>8 Q. The trainers aren't paid by the UFC;</p> <p>9 correct?</p> <p>10 A. No.</p> <p>11 Q. Correct, they're not paid by the UFC?</p> <p>12 A. Correct.</p> <p>13 Q. UFC doesn't pay fighters' trainers directly;</p> <p>14 correct?</p> <p>15 A. Correct.</p> <p>16 Q. And the fighters, in general, pay for their</p> <p>17 own meals while they're training; correct?</p> <p>18 A. Correct.</p> <p>19 Q. And their own travel while they're training;</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. When you said that the world's -- when you</p> <p>23 said that Gaethje's first real test coming up was</p> <p>24 Melvin Guillard, is it fair to say that the World</p> <p>25 Series of Fighting didn't have a lot of other</p>	<p style="text-align: right;">189</p> <p>1 SILVA</p> <p>2 and you knew of him, so he -- he made for a good</p> <p>3 measuring stick.</p> <p>4 Q. And the World Series of Fighting at that</p> <p>5 time, in the lightweight division, may have had a lot</p> <p>6 of other talented fighters, but it didn't have a lot</p> <p>7 of other known quantities like Melvin Guillard;</p> <p>8 correct?</p> <p>9 A. Correct.</p> <p>10 Q. All right. Back to Exhibit 4, which is one</p> <p>11 of these -- here -- one of these text message</p> <p>12 compilations.</p> <p>13 Turn to page 39 of Exhibit 4. All right.</p> <p>14 I'd like -- this is from -- this is the compilation</p> <p>15 of text messages that was produced to us by Zuffa</p> <p>16 that I think came from Dana White's phones, and I'm</p> <p>17 referring to a series of texts from November 11th,</p> <p>18 2014. And there is a text at 2:30:24 that I'd like</p> <p>19 to refer to, from you to (702) 686-1092.</p> <p>20 A. Uh-huh.</p> <p>21 Q. Is that Dana White?</p> <p>22 A. I believe so.</p> <p>23 Q. Okay. So you say to Dana White on</p> <p>24 November 14, 2014, at 2:30 in the afternoon: "Melvin</p> <p>25 Guillard missed weight for his WSOF title fight. Now</p>

<p style="text-align: right;">190</p> <p>1 SILVA</p> <p>2 non title and supposedly Gaethje demanded 50 percent</p> <p>3 of his purse and got it."</p> <p>4 And then White says, "Where is the fight" --</p> <p>5 A. Tampa, Florida.</p> <p>6 Q. And Tampa, Florida.</p> <p>7 And then there's an e-mail [sic] that --</p> <p>8 that you send to White that says: "In the press</p> <p>9 conference the day before he said he is an A level</p> <p>10 fighter fighting in a B level show. Never was the</p> <p>11 smartest guy."</p> <p>12 Do you see that?</p> <p>13 A. Yes.</p> <p>14 Q. What did you mean when you said that Gaethje</p> <p>15 said he was an A-level fighter fighting in a B-level</p> <p>16 show?</p> <p>17 A. I don't think I was talking about Gaethje, I</p> <p>18 think I was talking about Melvin Guillard.</p> <p>19 Q. Okay. Guillard. So what did you mean when</p> <p>20 you said --</p> <p>21 A. I thought he was being disrespectful to the</p> <p>22 promotion that he's fighting in.</p> <p>23 Q. I see. So he was disrespecting World</p> <p>24 Series.</p> <p>25 A. Right. It's like they're giving you a shot</p>	<p style="text-align: right;">192</p> <p>1 SILVA</p> <p>2 Bellator so he wouldn't have to fight wrestlers like</p> <p>3 in the UFC."</p> <p>4 A. Uh-huh.</p> <p>5 Q. And then Silva -- and then you say -- Shelby</p> <p>6 says: "LOL. I just love how Bellator is a</p> <p>7 tournament based organi... Wait. What's going on?"</p> <p>8 And then you say: "2 guys who both lost</p> <p>9 their last 3 UFC fights."</p> <p>10 And then Shelby says: "Headlining a</p> <p>11 pay-per-view with two guys combined losing 9 of their</p> <p>12 last 10 fights."</p> <p>13 And then Shelby says: "Sorry last three a</p> <p>14 piece they total zero and six, 0 and 6."</p> <p>15 And then Shelby says: "They tried to throw</p> <p>16 a curve ball but it went into the stands."</p> <p>17 And you say to Shelby: "Dana is going to</p> <p>18 have fun smashing that matchup publicly."</p> <p>19 Do you see that?</p> <p>20 A. Yeah.</p> <p>21 Q. And then -- and then Shelby says to you:</p> <p>22 "Bellator throws a curve ball... Into the stands. In</p> <p>23 Bellator there is no matchmaking, except in their</p> <p>24 'was relevant 5 years ago' division."</p> <p>25 And Shelby then says to you: "It's almost</p>
<p style="text-align: right;">191</p> <p>1 SILVA</p> <p>2 and paying you good money, and you're publicly saying</p> <p>3 they're a B-level show, that doesn't seem very smart.</p> <p>4 Q. I see. So he was publicly dissing the World</p> <p>5 Series of Fighters --</p> <p>6 A. Yeah, who was giving them -- him a world</p> <p>7 title shot and -- and promoting him. I -- it was</p> <p>8 boggling to me. But Melvin -- he would be a nice</p> <p>9 guy, but he was a troubled guy. And that's just what</p> <p>10 I was saying. It's like a -- what's this kid doing.</p> <p>11 Q. Thank you. You can put that aside.</p> <p>12 All right. Let's turn back to Exhibit 13,</p> <p>13 page 275. And 13 is the compilation of text messages</p> <p>14 from Sean Shelby, and these are texts that were sent</p> <p>15 7/31/13. 275.</p> <p>16 All right. So the first message that I want</p> <p>17 to ask -- to show you is July 31st, 2013, at 1650, or</p> <p>18 4:50. Yeah, so 4:50. Tito versus Rampage. So it's</p> <p>19 the one that says, "Tito versus Rampage."</p> <p>20 A. Uh-huh.</p> <p>21 Q. And this is you saying to Shelby: "Tito</p> <p>22 versus Rampage. We might as well just close up shop</p> <p>23 now."</p> <p>24 And then -- and then you -- and then</p> <p>25 somebody else says: "Good thing Rampage went to</p>	<p style="text-align: right;">193</p> <p>1 SILVA</p> <p>2 too easy."</p> <p>3 Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. All right. So both of you are communicating</p> <p>6 about a Bellator show that had just -- that was about</p> <p>7 to occur; is that right?</p> <p>8 A. Yes.</p> <p>9 Q. And that show was going to be headlined by</p> <p>10 Tito and Rampage?</p> <p>11 A. Yes.</p> <p>12 Q. Tito who?</p> <p>13 A. Ortiz.</p> <p>14 Q. Tito Ortiz. And Rampage Jackson?</p> <p>15 A. Correct.</p> <p>16 Q. Were both of those fighters who used to be</p> <p>17 in the UFC?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. And Rampage went from the UFC to --</p> <p>20 oh, sorry.</p> <p>21 Rampage went from the UFC to Bellator; is</p> <p>22 that right?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And you were saying it's a good thing</p> <p>25 Rampage went to Bellator so he wouldn't have to fight</p>

<p style="text-align: right;">366</p> <p>1 SILVA</p> <p>2 run, it's like, how would I justify that to the other</p> <p>3 fighter. He could point that out and I'd have to go,</p> <p>4 you have a point there.</p> <p>5 Q. Right. And in general, you believed you had</p> <p>6 to adhere as closely as possible to the structure</p> <p>7 of -- of compensation so that you didn't confront the</p> <p>8 next guy, saying why did you overpay this guy, I'm</p> <p>9 better than him; is that fair?</p> <p>10 MR. ISAACSON: Objection. Misstates his</p> <p>11 testimony. Objection to form.</p> <p>12 Q. I didn't mean to misstate. So if I said</p> <p>13 something you didn't agree with, let me know.</p> <p>14 A. I think anytime that you try to renegotiate,</p> <p>15 you're going to give your point of view, the</p> <p>16 manager's job is to give their point of view, and you</p> <p>17 try to work it out.</p> <p>18 For me, I like being able to justify. I</p> <p>19 don't -- I'm not saying here's just random numbers,</p> <p>20 accept them unquestioningly. It's like, here's my</p> <p>21 rationale for it, and it's a rationale that I'm also</p> <p>22 going to have to apply to other people who are</p> <p>23 involved in this as well.</p> <p>24 Q. Right. Your compensation system isn't --</p> <p>25 isn't random; that would be a problem for you,</p>	<p style="text-align: right;">368</p> <p>1 SILVA</p> <p>2 that I'm offering them. And if you're not performing</p> <p>3 as well, it would make sense that your compensation</p> <p>4 would be below those who are performing well.</p> <p>5 Q. In your experience, fighters want to know</p> <p>6 they are being treated -- or you want to be able to</p> <p>7 tell fighters that they're being treated fairly</p> <p>8 relative to other fighters at similar skill levels</p> <p>9 and records; right?</p> <p>10 MR. ISAACSON: Objection. Misstates the</p> <p>11 testimony.</p> <p>12 Q. I'm asking. Is that right?</p> <p>13 A. I would like people to believe that I am</p> <p>14 dealing with them fairly.</p> <p>15 Q. And one way you -- you convey to them, the</p> <p>16 managers and fighters that you're negotiating with,</p> <p>17 that you're dealing with them fairly is to honestly</p> <p>18 tell them where you believe they fit, their</p> <p>19 compensation fits, relative to other fighters at</p> <p>20 their level; correct?</p> <p>21 MR. ISAACSON: Objection to "their level."</p> <p>22 Q. Is that right?</p> <p>23 A. That's correct.</p> <p>24 Q. And you negotiated with hundreds of fighters</p> <p>25 during your career at the UFC; correct?</p>
<p style="text-align: right;">367</p> <p>1 SILVA</p> <p>2 wouldn't it?</p> <p>3 A. Yes.</p> <p>4 Q. When you say "everyone knows what everyone</p> <p>5 makes," what do you mean by that?</p> <p>6 A. That if I was to increase Bang's contract --</p> <p>7 most of the managers out there -- quite a few of the</p> <p>8 managers anyways, they do research, they're looking</p> <p>9 at what's being posted that the -- what these guys</p> <p>10 are making. So if somebody was to see in his next</p> <p>11 fight the disparity in what he got paid this time as</p> <p>12 opposed to last time, they -- just red flags would go</p> <p>13 up.</p> <p>14 It's like, wait, how, after coming off of</p> <p>15 two losses and a questionable decision, did his pay</p> <p>16 jump up that much, that people look and research</p> <p>17 that.</p> <p>18 Q. Right. And so if you were to jump someone's</p> <p>19 pay up above what a comparable person believes they</p> <p>20 should be paid, that would cause you problems with</p> <p>21 other fighters; right?</p> <p>22 MR. ISAACSON: Objection. Form. You're</p> <p>23 being vague.</p> <p>24 A. Yeah, I think that I want to reward</p> <p>25 performance and be able to justify the -- the numbers</p>	<p style="text-align: right;">369</p> <p>1 SILVA</p> <p>2 A. Probably more than a thousand, I would</p> <p>3 think.</p> <p>4 Q. And you experienced often fighters or their</p> <p>5 representatives trying to negotiate, as you just</p> <p>6 said, using compensation levels of other fighters</p> <p>7 they believed were similar to their guy; right?</p> <p>8 A. Right. And that can be where you can have a</p> <p>9 difference of opinion of where I'm going, I think</p> <p>10 that he is similar to this guy, this guy, they can</p> <p>11 counter and go, we don't see him as similar to that</p> <p>12 guy, we see him as similar to this guy.</p> <p>13 So then that's -- it's still -- it's a</p> <p>14 matter of opinion. I try to present what I think</p> <p>15 I -- are the facts I have to back up my argument.</p> <p>16 But sometimes in -- there have been times where a</p> <p>17 outlier has been pointed out to me, where I'll go,</p> <p>18 this is what I think is fair because this is what</p> <p>19 other guys -- and they'll make a case of, wait a sec</p> <p>20 now, look what he did here, this is outside of that,</p> <p>21 and I've gone, you've actually got a point, I'll up</p> <p>22 it.</p> <p>23 It's not rare because I usually do my</p> <p>24 homework pretty well on these. But there has been</p> <p>25 occasions like, I missed out on that, you are</p>

<p style="text-align: right;">370</p> <p>1 SILVA</p> <p>2 correct, I would not want to hurt my credibility by</p> <p>3 acting like what they have in black and white is not</p> <p>4 true.</p> <p>5 Q. So if you -- if they brought to you like</p> <p>6 what you have described as an outlier, where some</p> <p>7 fighter may have diverted from what you thought they</p> <p>8 should have gotten based on their background and</p> <p>9 their skill level, you'd -- you'd certainly --</p> <p>10 sometimes you would hear it from the fighters or</p> <p>11 their representatives about that outlier; right?</p> <p>12 A. Yes.</p> <p>13 Q. And if, by creating that outlier, that</p> <p>14 sometimes causes other fight -- you have to then</p> <p>15 raise the compensation then of some other fighters</p> <p>16 because you made that one mistake; is that right?</p> <p>17 A. Well -- well, you'd have to -- one, I don't</p> <p>18 know I'd say it was a mistake. And it's -- it's a</p> <p>19 matter of opinion. And that I did deals, Sean did</p> <p>20 deals, Dana did deals, Lorenzo did deals, and</p> <p>21 everybody's judgment is different. So you have to</p> <p>22 weigh those in. So that's all people who are getting</p> <p>23 deals in the UFC.</p> <p>24 But a manager's job is to negotiate the best</p> <p>25 deal that they can. And my job is to try to</p>	<p style="text-align: right;">372</p> <p>1 SILVA</p> <p>2 You said 16, I asked for 18. Could you agree to 17?"</p> <p>3 He says that towards the bottom.</p> <p>4 A. Uh-huh.</p> <p>5 Q. And then you say on December 9, 2010: "Not</p> <p>6 trying to be a dick but no. Everyone knows what</p> <p>7 everyone makes. Our purses are public. I have to</p> <p>8 justify everyone's pay to everyone else."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. What did you mean by that, "I have to</p> <p>12 justify everyone's pay to everyone else"?</p> <p>13 A. I feel it was important in my job to</p> <p>14 actually engage with people and not just dictate to</p> <p>15 them. So if somebody was going to say, what about</p> <p>16 this guy, I would have to engage that and not go, too</p> <p>17 bad.</p> <p>18 Q. Right.</p> <p>19 A. I'd have to go, okay, you've got a point,</p> <p>20 let's try and figure this out. So, yeah, I'm just</p> <p>21 making him aware of that.</p> <p>22 Q. Right. And so you wanted to make sure that</p> <p>23 you did your best to try to make sure that comparable</p> <p>24 fighters with comparable records are getting paid</p> <p>25 comparable amounts; is that fair?</p>
<p style="text-align: right;">371</p> <p>1 SILVA</p> <p>2 negotiate a deal that I thought was fair.</p> <p>3 Q. So if -- if, for example, Shelby had been --</p> <p>4 had been systematically kind of paying fighters a bit</p> <p>5 more than you did or Dana was systematically paying</p> <p>6 comparable fighters a little bit more than you did,</p> <p>7 you then might feel pressure then to kind of pay</p> <p>8 fighters more because you would be hearing from reps</p> <p>9 about comparables from Dana or Shelby; is that right?</p> <p>10 A. I'm sure it would be brought up.</p> <p>11 Q. So if -- if there are some -- if one of the</p> <p>12 three of you are kind of raising the level per</p> <p>13 equivalent fighter, that's going to put pressure on</p> <p>14 that third person to kind of raise as well?</p> <p>15 A. I don't think it's pressure in that me and</p> <p>16 Sean did the vast majority of deals, and me and Sean</p> <p>17 were in constant communication every day and knew</p> <p>18 what each other were doing. So it's not like I was</p> <p>19 going, Sean, what are you doing here? We knew. But</p> <p>20 we would still, on our own, choose to, let's move</p> <p>21 people up, we feel like it's time to do it.</p> <p>22 So Dana and Lorenzo did do deals, but they</p> <p>23 did, like I said, maybe 10, 15 percent of deals.</p> <p>24 Q. Yeah, if you turn to the first page of this</p> <p>25 document, Bean says: "Can you meet me in the middle?</p>	<p style="text-align: right;">373</p> <p>1 SILVA</p> <p>2 MR. ISAACSON: Objection. Form.</p> <p>3 A. Yeah, that was my goal.</p> <p>4 Q. And one of the reasons why you did that is</p> <p>5 because you had to justify everyone's pay to everyone</p> <p>6 else, and if you -- if you were doing this poorly or</p> <p>7 inefficiently, you'd constantly have fighters</p> <p>8 demanding more money, they'd say, hey, wait, you paid</p> <p>9 this guy this much and that guy that much, and you</p> <p>10 wouldn't be able to justify to them if -- if you</p> <p>11 hadn't been doing this well; is that right?</p> <p>12 A. It would just seem unfair to give somebody</p> <p>13 something that somebody else, equally deserving,</p> <p>14 didn't get.</p> <p>15 Q. And you attempted, at least in your mind, to</p> <p>16 be fair, to impose a sense of equity between the</p> <p>17 different fighters; correct?</p> <p>18 A. I did.</p> <p>19 Q. All right. You can put that document aside.</p> <p>20 MR. CRAMER: Like to mark the next</p> <p>21 document as Silva Exhibit 38.</p> <p>22 (Silva Deposition Exhibit 38 marked for</p> <p>23 identification.)</p> <p>24 Q. Silva 38 is a series of e-mails bearing the</p> <p>25 Bates range ZFL-2641095 through 1099. The one at the</p>

<p style="text-align: right;">374</p> <p>1 SILVA</p> <p>2 top is from Kim Lynch to Mr. Silva and Mr. Mersch,</p> <p>3 dated October 16, 2007, regarding Ricardo Almeida.</p> <p>4 Who is Ricardo Almeida?</p> <p>5 A. He was a UFC fighter.</p> <p>6 Q. All right. And Ally Almeida is his wife?</p> <p>7 A. Was his wife.</p> <p>8 Q. Was his wife, okay.</p> <p>9 And she was his representative at the time?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Turn to page 2 of the document. I'd</p> <p>12 like to draw your attention to the e-mail in the</p> <p>13 middle of the page from you to Ally Almeida.</p> <p>14 Do you see that?</p> <p>15 A. Yes.</p> <p>16 Q. Dated Wednesday, October 10, 2007.</p> <p>17 This is an e-mail that you sent to</p> <p>18 Ms. Almeida; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And you wrote a little bit into the</p> <p>21 e-mail: "As I have" -- "as I said, I have 200</p> <p>22 fighters under contract and our purses are public. I</p> <p>23 have to justify to all my other fighters what I pay</p> <p>24 out. There are people under contract to me now that</p> <p>25 are not making as much as I offered Ricardo and they</p>	<p style="text-align: right;">376</p> <p>1 SILVA</p> <p>2 Q. It's a better investment for the UFC if they</p> <p>3 have fighters locked up under longer term deals than</p> <p>4 shorter term deals?</p> <p>5 A. Well, and also with -- if you're insisting</p> <p>6 on that you want a higher than normal amount of</p> <p>7 money, if I go, well, if I normally do four fights,</p> <p>8 how do I justify giving you more than I would for a</p> <p>9 four-fight deal, well, you committed to six fights,</p> <p>10 so that's worth more money to me. You're giving me</p> <p>11 something, I'm giving you something. And to anybody</p> <p>12 who disputes that, I have something I can explain.</p> <p>13 Q. Okay. All right. Please turn to page 29 of</p> <p>14 Exhibit Silva 20. It's one of these phone -- here it</p> <p>15 is. I'll pull it out for you. It's a text message</p> <p>16 compilation.</p> <p>17 A. Thank you. What page?</p> <p>18 Q. Exhibit 20, and turn to page --</p> <p>19 MR. MADDEN: 29.</p> <p>20 Q. -- 29.</p> <p>21 So this is from the text message compilation</p> <p>22 that Zuffa produced to us from Lorenzo Fertitta. And</p> <p>23 on page 29 is a series of texts that begin on</p> <p>24 October 4, 2013, at 2:20:59 p.m. Yeah. Okay. So</p> <p>25 2:20:59 p.m., there's a text from the 702 number to a</p>
<p style="text-align: right;">375</p> <p>1 SILVA</p> <p>2 are better known to our fans and have more UFC fights</p> <p>3 then he does."</p> <p>4 Do you see that?</p> <p>5 A. Yes.</p> <p>6 Q. So what did you mean?</p> <p>7 A. That I was explaining to her that I thought</p> <p>8 the offer for him was very good, out of the normal, I</p> <p>9 would have to justify that as it is, which was going</p> <p>10 to be an uphill battle, but yet she wanted even more</p> <p>11 than that.</p> <p>12 Q. And this was one of the ways that you told</p> <p>13 her you're not going to give her more, is by saying</p> <p>14 he's already out of the normal; right?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. You say there a little bit above the</p> <p>17 part that I read: "If I am building fighters I need</p> <p>18 to know that they are going to be with me for a</p> <p>19 while."</p> <p>20 What did you mean by that?</p> <p>21 A. Well, that you're investing in the fighter</p> <p>22 and putting time in getting people to know who they</p> <p>23 are. And if they just fought one fight, then you</p> <p>24 don't know, are they coming back again. That's not</p> <p>25 as good an investment.</p>	<p style="text-align: right;">377</p> <p>1 SILVA</p> <p>2 group, that includes several people. Do you see</p> <p>3 that?</p> <p>4 A. Yes.</p> <p>5 Q. And then it says: "What's the situation</p> <p>6 with Schaub?"</p> <p>7 And then you respond to this group: "He</p> <p>8 fought the last fight on his TUF deal. I offered him</p> <p>9 new deal and they balked, saying they wanted to talk</p> <p>10 to you guys about it. He's not top ten and he wants</p> <p>11 more than top ten guys like Stipe and Travis Browne</p> <p>12 are making."</p> <p>13 And then someone says: "What's the</p> <p>14 difference in numbers."</p> <p>15 And you say: "He was making 18 plus 18, and</p> <p>16 I offered 21/21, 24/24, 27/27, and 30/30."</p> <p>17 And you say also: "Stipe is making 20/20</p> <p>18 for the next fight -- for next fight. He beat the</p> <p>19 crap out of Roy Nelson. Schaub got knocked out by</p> <p>20 Nelson."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. Do you recall who this conversation was</p> <p>24 with? Was Lorenzo a part of this?</p> <p>25 A. I'm sure he was.</p>

<p style="text-align: right;">378</p> <p>1 SILVA</p> <p>2 Q. So I think it's Lorenzo and Shelby.</p> <p>3 And Schaub was a UFC fighter; is that right?</p> <p>4 A. Correct.</p> <p>5 Q. And in your opinion, he was asking to be</p> <p>6 paid more than fighters who were highly ranked than</p> <p>7 him?</p> <p>8 A. That I thought had accomplished more than he</p> <p>9 had.</p> <p>10 Q. And so because he was asking to be paid sort</p> <p>11 of out of the level that you thought should be paid</p> <p>12 to comparable fighters, you were saying that he</p> <p>13 should not get the amount that he asked for; is that</p> <p>14 right?</p> <p>15 A. Yes. That was my opinion.</p> <p>16 Q. What ended up happening, do you know?</p> <p>17 A. I think that he ended up signing a new deal</p> <p>18 and fighting after that, but I -- I'd have to look.</p> <p>19 There was a time when he was not -- ended up not</p> <p>20 fighting for us, but I don't recall if it was at the</p> <p>21 end of this or not. I don't recall --</p> <p>22 Q. Okay.</p> <p>23 A. -- the time frame.</p> <p>24 Q. All right. You can put that aside.</p> <p>25 And I believe you testified that the</p>	<p style="text-align: right;">380</p> <p>1 SILVA</p> <p>2 contract, it's just faster to put them back in there</p> <p>3 quickly than if you're starting from scratch. So you</p> <p>4 just always knew. It's like, as many of those guys</p> <p>5 that you have like that, the better to -- to keep the</p> <p>6 shows moving smoothly.</p> <p>7 Q. Was it your -- were you aware whether Shelby</p> <p>8 also in -- was -- strike that.</p> <p>9 Was it your understanding that Shelby also</p> <p>10 had a practice of negotiating after the third fight</p> <p>11 of a four-fight deal?</p> <p>12 A. I think we were somewhat similar. I think,</p> <p>13 for Sean's might have been a little bit different</p> <p>14 because before I retired, we were both matchmakers</p> <p>15 but I was doing more fights than he was. So he had</p> <p>16 less spots on the show, so he had to have even</p> <p>17 tighter rein over the amount of fighters that he had.</p> <p>18 So he might have been more willing to just have</p> <p>19 fighters fight out their deal because we were</p> <p>20 concerned about making sure not to have too many</p> <p>21 under contract. And he had less spots to play with</p> <p>22 on a show than I did.</p> <p>23 Q. I see.</p> <p>24 Who is Ryan Parsons?</p> <p>25 A. He's an MMA manager.</p>
<p style="text-align: right;">379</p> <p>1 SILVA</p> <p>2 standard Zuffa contract was for four bouts, but that</p> <p>3 you typically renegotiated before the last fight?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. And is it fair to say that fighters</p> <p>6 rarely fought out the last fight in their contract</p> <p>7 without negotiating a new contract?</p> <p>8 A. No, it would happen. More times than not</p> <p>9 they would want a new deal. But they -- there</p> <p>10 were certainly -- there's lots of examples of people</p> <p>11 who just, no, I'm going to do it.</p> <p>12 Even Roy Nelson in that aforementioned fight</p> <p>13 with Stipe, that was his last fight under contract.</p> <p>14 He lost to Stipe and they still signed him to a new</p> <p>15 deal.</p> <p>16 Q. And when you -- you're describing your --</p> <p>17 your practice of negotiating after the third fight</p> <p>18 before the last fight in a contract. Was that an</p> <p>19 informal Zuffa policy, to your understanding, or</p> <p>20 that's just something that you did, that was just</p> <p>21 your practice?</p> <p>22 A. I think it was kind of informal. But</p> <p>23 there's an -- that you have a bunch of shows that</p> <p>24 you're doing, and there's constant dropouts, so speed</p> <p>25 became paramount, and if somebody is already under</p>	<p style="text-align: right;">381</p> <p>1 SILVA</p> <p>2 Q. And was he a representative for Patrick</p> <p>3 Cummins?</p> <p>4 A. Yes.</p> <p>5 MR. CRAMER: All right. I'd like to mark</p> <p>6 as Silva Exhibit 39 the next document.</p> <p>7 (Silva Deposition Exhibit 39 marked for</p> <p>8 identification.)</p> <p>9 Q. So at the top of this -- this e-mail is</p> <p>10 dated May 5th, 2015, the one at the top. This --</p> <p>11 this is a one-page document with two e-mails with the</p> <p>12 Bates number ZFL-0977248. And there's an e-mail from</p> <p>13 you to Mr. Parsons.</p> <p>14 Did you send that e-mail?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. And you write: "I'm not" -- "I'm not</p> <p>17 locking him into a long term deal."</p> <p>18 And you say: "It's just a 4 fight deal and</p> <p>19 I always renegotiate before the last fight just like</p> <p>20 I am doing now. So 3 fights and we talk again."</p> <p>21 Do you see that?</p> <p>22 A. Yes.</p> <p>23 Q. So this is an instance of you enacting your</p> <p>24 practice of negotiating before the last fight; is</p> <p>25 that right?</p>

<p style="text-align: right;">394</p> <p>1 SILVA</p> <p>2 The Ultimate Fighter, so the fight was already</p> <p>3 promised. The fight's out, but yet if he chose to,</p> <p>4 Serra could choose to let his old contract just</p> <p>5 expire and have no obligation to do that fight.</p> <p>6 Q. You say: "It's always a bad position for us</p> <p>7 to be in counting on that new agreement while time is</p> <p>8 ticking away on the old one."</p> <p>9 Is what you meant there that you'd rather</p> <p>10 have a new agreement executed before the old one</p> <p>11 expires?</p> <p>12 A. Well, if -- when it's a situation where you</p> <p>13 have an already announced fight, which was here,</p> <p>14 that's definitely not a good situation. You --</p> <p>15 you're not going to possibly deliver on something you</p> <p>16 promised publicly.</p> <p>17 Q. So Zuffa doesn't want to be embarrassed by</p> <p>18 publicly promising a fight and then not having the</p> <p>19 fight happen?</p> <p>20 A. Yes.</p> <p>21 Q. Is it also the case, though, that one of the</p> <p>22 reasons why you try -- it's your practice to try to</p> <p>23 negotiate with a fighter after the third fight in a</p> <p>24 four-fight deal, is to not be in a situation where a</p> <p>25 contract is expiring without a new one having been</p>	<p style="text-align: right;">396</p> <p>1 SILVA</p> <p>2 Connette dated November 16, 2011.</p> <p>3 A. Uh-huh.</p> <p>4 Q. And Mersch says in the second paragraph:</p> <p>5 "Before someone fights for a UFC championship we</p> <p>6 would likely have them locked into a longer term</p> <p>7 deal. Additionally, if a fighter is successful under</p> <p>8 a 4 fight deal, we typically negotiate a new</p> <p>9 agreement after the 3rd fight so he never will see</p> <p>10 the end of his contract and, assuming the fighter is</p> <p>11 successful, or at least competitive, that is the</p> <p>12 process that will continue thereafter."</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Is -- is Mr. Mersch accurately describing</p> <p>16 the practice at Zuffa with regard to renegotiating</p> <p>17 contracts after the third fight and before the fourth</p> <p>18 fight?</p> <p>19 A. That's not how I would put it.</p> <p>20 Q. So Mersch puts it differently than you</p> <p>21 would?</p> <p>22 A. Yes.</p> <p>23 Q. All right. You can put that document aside.</p> <p>24 MR. CRAMER: I'd like to mark the next</p> <p>25 document as Silva Exhibit 43.</p>
<p style="text-align: right;">395</p> <p>1 SILVA</p> <p>2 signed?</p> <p>3 A. That's not as much of a problem unless we</p> <p>4 didn't get them their number of fights. Then we</p> <p>5 would have to pay them for whatever unfulfilled. If</p> <p>6 it expired and there were still fights left on their</p> <p>7 contract, we would be responsible to still pay them</p> <p>8 for the fights we did not get them before expiration.</p> <p>9 Q. All right. You can put that document aside.</p> <p>10 MR. CRAMER: All right. I'd like to mark</p> <p>11 as the next document Silva Exhibit 42.</p> <p>12 (Silva Deposition Exhibit 42 marked for</p> <p>13 identification.)</p> <p>14 Q. Silva 42 is a November 2011 e-mail exchange</p> <p>15 between Michael Mersch and Michael Connette, it bears</p> <p>16 the Bates range ZFL-1404974 through 4978.</p> <p>17 I believe I asked you this before, but</p> <p>18 Connette was a representative for UFC fighter Mark</p> <p>19 Hunt; is that right?</p> <p>20 A. Yeah. I believe it's Connette.</p> <p>21 Q. Connette. So Connette was a representative</p> <p>22 for Hunt?</p> <p>23 A. Yes.</p> <p>24 Q. Turn to the bottom of the third page of this</p> <p>25 series of e-mails. There's an e-mail from Mersch to</p>	<p style="text-align: right;">397</p> <p>1 SILVA</p> <p>2 (Silva Deposition Exhibit 43 marked for</p> <p>3 identification.)</p> <p>4 Q. Silva 43 is a one-page series of e-mails</p> <p>5 dated [sic] ZFL-14121551. The e-mail at the bottom</p> <p>6 of the page is from Cesar Gracie dated Tuesday,</p> <p>7 April 20, 2010. It's to Mr. Silva, and the subject</p> <p>8 is Nick Diaz.</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. And you received that e-mail?</p> <p>12 A. Yes.</p> <p>13 Q. And Nick Diaz was a UFC fighter?</p> <p>14 A. Yes.</p> <p>15 Q. And you were making -- I'm sorry.</p> <p>16 And Mr. Gracie, on behalf of Nick Diaz, was</p> <p>17 negotiating with you for a new contract; is that</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. And he requests 33/33, 36/36, and 39/39, or</p> <p>21 alternatively a one-year contract at 42/42.</p> <p>22 Do you see that?</p> <p>23 A. No. He's saying he wants the -- the three</p> <p>24 fights he doesn't think we can get him more than a</p> <p>25 year, so it would be that much for a year. But if</p>

<p style="text-align: right;">398</p> <p>1 SILVA</p> <p>2 you could get him a fourth fight, we'd do that at 42</p> <p>3 plus 42.</p> <p>4 Q. I see.</p> <p>5 A. That's what he's saying.</p> <p>6 Q. I see.</p> <p>7 And then he says: "These numbers are</p> <p>8 substantially less than what Strikeforce will offer."</p> <p>9 Do you see that?</p> <p>10 A. Yes, that's what he's saying.</p> <p>11 Q. And then you say to White and Fertitta right</p> <p>12 above that -- you forward the below e-mail on</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 [REDACTED]</p> <p>21 [REDACTED]</p> <p>22 [REDACTED]</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Do you have an understanding about why</p>	<p style="text-align: right;">400</p> <p>1 SILVA</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 Do you see that?</p> <p>6 A. Yes.</p> <p>7 Q. So you're saying that if Diaz turns down the</p> <p>8 offer which was being made before Diaz's last fight,</p> <p>9 you were going to put him at a really bad position on</p> <p>10 a card against a tough fight -- tough guy?</p> <p>11 A. It's not in a bad position on the card.</p> <p>12 Everybody has to -- if you want to fight in a show,</p> <p>13 you only have so many positions, so you're going to</p> <p>14 be somewhere. But I'm -- am I going to give that</p> <p>15 spotlight more to somebody who I'm already building</p> <p>16 their next fight or somebody fighting their last</p> <p>17 fight. You have to make that choice.</p> <p>18 If he agreed to sign the deal, I still have</p> <p>19 to decide where to put him. That they still could be</p> <p>20 in the prelims. On a Pay-Per-View, you only have 5</p> <p>21 main hard fights out of 13. So outside of those 5</p> <p>22 bout -- main fight -- bout fights, the rest are</p> <p>23 prelims. The majority of fights are prelims. To go,</p> <p>24 you're going to put him in a really bad position,</p> <p>25 doesn't make sense.</p>
<p style="text-align: right;">399</p> <p>1 SILVA</p> <p>2 Mr. Fertitta thought that Mr. Diaz would be willing</p> <p>3 to take less money from the UFC than from</p> <p>4 Strikeforce?</p> <p>5 A. Well, he explains it in the next --</p> <p>6 MR. ISAACSON: Objection. Calls for</p> <p>7 speculation.</p> <p>8 A. Explains it in the next sentence.</p> <p>9 Q. What was it? What does he say?</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 Q. I see. So Strikeforce might guarantee him</p> <p>17 more, but --</p> <p>18 A. Right.</p> <p>19 Q. -- but in the UFC, you'll have the</p> <p>20 opportunity to get discretionary bonuses?</p> <p>21 A. And he had a history of making.</p> <p>22 Q. Okay. And then you respond to White and</p> <p>23 [REDACTED]</p> <p>24 [REDACTED]</p> <p>25 [REDACTED]</p>	<p style="text-align: right;">401</p> <p>1 SILVA</p> <p>2 [REDACTED]</p> <p>3 [REDACTED]</p> <p>4 [REDACTED]</p> <p>5 [REDACTED]</p> <p>6 [REDACTED]</p> <p>7 [REDACTED]</p> <p>8 [REDACTED]</p> <p>9 [REDACTED]</p> <p>10 [REDACTED]</p> <p>11 [REDACTED]</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 Q. So in exchange for Diaz not giving you and</p> <p>21 the UFC a commitment to -- to re-up on a new</p> <p>22 contract, you're going to -- you're going to put him</p> <p>23 in a prelim and still give him a tough guy, is that</p> <p>24 right, to fight?</p> <p>25 A. He's only ever fought tough guys even when</p>

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<p style="text-align: right;">402</p> <p>1 SILVA</p> <p>2 he fought in the prelims before, so, yes, it would</p> <p>3 not be different or unusual.</p> <p>4 Q. And so your testimony here today, under</p> <p>5 oath, is that when you said, if they turn it down, I</p> <p>6 put him in a prelim against a really tough guy for</p> <p>7 his fight, you did not mean that that would be in a</p> <p>8 sense punitive for him turning down the deal?</p> <p>9 A. It's not punitive.</p> <p>10 Q. Is your testimony also that if he accepted</p> <p>11 the deal, you would still put him in a prelim against</p> <p>12 a really tough guy for his last fight?</p> <p>13 A. No. Then he'd fight a really tough guy, but</p> <p>14 most likely be featured, because we have future</p> <p>15 fights with him to promote him.</p> <p>16 Q. So fighters -- it's fair to say that a</p> <p>17 fighter who was offered a deal before their last</p> <p>18 fight, reasonably anticipate that if they don't</p> <p>19 accept that deal before their last fight, they would</p> <p>20 be in a worse position than if they accept the deal,</p> <p>21 not just because they get paid less money for that</p> <p>22 last fight, but also because their not giving Zuffa a</p> <p>23 commitment meant that Zuffa was not going to give</p> <p>24 them a favored position on a card; is that fair?</p> <p>25 A. No. It just depends on the circumstance.</p>	<p style="text-align: right;">404</p> <p>1 SILVA</p> <p>2 everything's fine, he's not on his last fight, he's</p> <p>3 just on his regular one, some cards are very good and</p> <p>4 you are agonizing over who goes where, who gets those</p> <p>5 main card slots or not. And that Sean has fighters</p> <p>6 of his and he wants to get them face time, make them</p> <p>7 seem important and put there, so I'm trying to take</p> <p>8 his needs into consideration. Who does Dana think is</p> <p>9 main-card worthy. Who does Lorenzo.</p> <p>10 There's a lot that goes into it. So we</p> <p>11 have -- but we have shown that in the past there's</p> <p>12 people who are in this situation still ended up main</p> <p>13 card, and there's ones who didn't. It just depends</p> <p>14 on the situation.</p> <p>15 Q. But all things being equal, you'd more</p> <p>16 likely give someone a better position on a card if</p> <p>17 they agree to commit to more fights and to a --</p> <p>18 another contract than if they don't; right?</p> <p>19 A. If they're name -- name worthy enough to be</p> <p>20 on the main card.</p> <p>21 Q. Right. So if --</p> <p>22 A. And somewhere on the bubble.</p> <p>23 Q. So someone who's name worthy enough to be on</p> <p>24 the main card, all things being equal, you'd give</p> <p>25 them the better position relative to others if they</p>
<p style="text-align: right;">403</p> <p>1 SILVA</p> <p>2 That was this particular circumstance. As with the</p> <p>3 Roy Nelson circumstance, he still fought, might have</p> <p>4 been a co-main event. It just depends on the</p> <p>5 circumstance of the card.</p> <p>6 On this particular card, it was a strong</p> <p>7 card. On the one that Roy Nelson was, it was not a</p> <p>8 strong card, so it's like, well, there is still</p> <p>9 space. We're not going to be punitive and cut off</p> <p>10 our nose to spite our face and put him on a prelim on</p> <p>11 a card that's not as strong.</p> <p>12 On this particular card, it was a strong</p> <p>13 card, and it's like, yeah, it's not hurting us for</p> <p>14 him to be -- he'd be the main event of the prelims,</p> <p>15 which is still a good position, that's a fight that</p> <p>16 would be on FS1 and seen by over a million people.</p> <p>17 And then you still could get that -- that they</p> <p>18 advertise that, so you still could get promotion out</p> <p>19 of it. But it's like, am I going to put him over the</p> <p>20 other five guys on a strong card with no commitment</p> <p>21 to him. It's like, I'd rather use that time on the</p> <p>22 guys that I do.</p> <p>23 Q. Have a commitment on --</p> <p>24 A. And you always -- and each one, you still</p> <p>25 have to make that choice. Even when he -- if</p>	<p style="text-align: right;">405</p> <p>1 SILVA</p> <p>2 agreed to commit to another contract than if they</p> <p>3 didn't agree; correct?</p> <p>4 A. Depending on the card.</p> <p>5 Q. Depending on the card.</p> <p>6 But all things equal. So everything's</p> <p>7 equal. What --</p> <p>8 A. Anytime everything's equal, anything that's</p> <p>9 unequal makes the difference.</p> <p>10 Q. Right. And so this is something that would</p> <p>11 make the difference; right?</p> <p>12 [REDACTED]</p> <p>13 [REDACTED]</p> <p>14 [REDACTED]</p> <p>15 [REDACTED]</p> <p>16 [REDACTED]</p> <p>17 [REDACTED]</p> <p>18 [REDACTED]</p> <p>19 [REDACTED]</p> <p>20 Q. All right. You can put that document aside.</p> <p>21 By the way, did you tell Mr. Diaz or his</p> <p>22 representative that if they did not re-sign a new</p> <p>23 contract what position they would get on the card?</p> <p>24 A. I don't recall.</p> <p>25 Q. Was it the case that sometimes you, in the</p>

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<p style="text-align: right;">406</p> <p>1 SILVA</p> <p>2 course of negotiating with a fighter after their</p> <p>3 third fight and before the fourth fight, you would</p> <p>4 tell the representative, well, as an incentive to</p> <p>5 re-sign, we not only will pay you more but we'll give</p> <p>6 you a better position on a card for --</p> <p>7 A. Absolutely not.</p> <p>8 Q. Okay.</p> <p>9 A. Because I didn't have the authority to do</p> <p>10 that. And the card order would change constantly up</p> <p>11 to the last minute.</p> <p>12 So there were times where quite often it was</p> <p>13 left to my general discretion what the order of the</p> <p>14 card would be, but then Dana -- so I might even let</p> <p>15 somebody know, this is it, I've got no opposition, so</p> <p>16 this is there, but then Dana would go, no, I want --</p> <p>17 I want this this way. And then I'd have to go back</p> <p>18 and tell the person that could be very disappointed,</p> <p>19 so I stopped telling people, because I knew it -- it</p> <p>20 could change at any time.</p> <p>21 Especially with dropouts, which happen every</p> <p>22 show. It's very rare that we ever have a show where</p> <p>23 there's not dropouts, which reshuffles the lineup.</p> <p>24 So at any time your card position can</p> <p>25 change. So I went out of my way not to. And</p>	<p style="text-align: right;">408</p> <p>1 SILVA</p> <p>2 Zuffa extended a fighter's contract even though that</p> <p>3 fighter never turned down a fight based on injury?</p> <p>4 A. No. Well, you wouldn't have to turn down a</p> <p>5 fight, though, if you just let us know you're injured</p> <p>6 and can't fight. There would be no point in me</p> <p>7 offering you a fight. If you call me up today and</p> <p>8 go, hey, I just let -- letting you know I broke my</p> <p>9 arm, I'm not going to be available to fight; for me</p> <p>10 to call you the next day and offer you a fight would</p> <p>11 be silly.</p> <p>12 Q. I see. So if someone informs you that they</p> <p>13 are injured and can't fight, then you give them an</p> <p>14 injury extension?</p> <p>15 A. Exactly.</p> <p>16 Q. Okay.</p> <p>17 MR. CRAMER: I'd like to mark the next</p> <p>18 document as Silva Exhibit 44.</p> <p>19 (Silva Deposition Exhibit 44 marked for</p> <p>20 identification.)</p> <p>21 Q. So the Bates number was cut off in part.</p> <p>22 This is a one-page series of two e-mails with the</p> <p>23 Bates number COX-0041232. And this is Silva 44.</p> <p>24 Okay. This is a November 2012 e-mail</p> <p>25 exchange between you and Monte Cox. At the bottom of</p>
<p style="text-align: right;">407</p> <p>1 SILVA</p> <p>2 honestly, very few people asked.</p> <p>3 You'd have people ask if they were the main</p> <p>4 event. Because in a nontitle main event fight,</p> <p>5 especially, it's a five-round fight as opposed to a</p> <p>6 three-round fight. So there was very concrete reason</p> <p>7 why they would want to know that.</p> <p>8 But in general, I did not -- for a while I</p> <p>9 think maybe people were just curious. Well, where am</p> <p>10 I, when I could tell my family when they can expect</p> <p>11 to see my fight. And -- and there just came a time,</p> <p>12 it's like it's changed enough times, like, I</p> <p>13 really -- I can't commit. This is what it is for the</p> <p>14 moment, but it's subject to change.</p> <p>15 Q. Okay. I'd like to ask you about injury</p> <p>16 extensions. We talked a little bit about that.</p> <p>17 A. Yeah.</p> <p>18 Q. If you found out after the fact that a</p> <p>19 fighter had been injured, but the fighter never</p> <p>20 turned down a fight and never told you beforehand</p> <p>21 that he was injured, is it your understanding that</p> <p>22 you could extend their agreement for the period of</p> <p>23 injury?</p> <p>24 A. No.</p> <p>25 Q. So you don't know of any instance where</p>	<p style="text-align: right;">409</p> <p>1 SILVA</p> <p>2 the page on November 13, 2012, Mr. Cox sends you an</p> <p>3 e-mail with the subject, "Why are we getting an</p> <p>4 injury extension for Rich?"</p> <p>5 And that refers to Rich Franklin; is that</p> <p>6 right?</p> <p>7 A. Yes.</p> <p>8 Q. He was a UFC champion?</p> <p>9 A. Yes.</p> <p>10 Q. And Clare Wetton --</p> <p>11 A. Uh-huh.</p> <p>12 Q. -- who is she?</p> <p>13 A. She works in our Europe office.</p> <p>14 Q. All right. So she works in your Europe</p> <p>15 office. And on November 10, 2012, sends to you --</p> <p>16 you and some others, an e-mail, "Subject: Rich</p> <p>17 Franklin," "Importance: High," and says: "Rich</p> <p>18 Franklin has had his left thumb xrayed and it is</p> <p>19 fractured."</p> <p>20 And then Silva -- you say to Cox in response</p> <p>21 to his question why -- why are we getting an injury</p> <p>22 extension letter for Rich, you say: "They generate</p> <p>23 them automatically when a fighter is injured after a</p> <p>24 fight."</p> <p>25 Do you see that?</p>